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10 Attorneys for Plaintiff

11 OVERTURE SERVICES, INC.

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15
16 OVERTURE SERVICES, INC., a
Delaware Corporation,

17 Plaintiff,

18 vs.

19 GOOGLE INC., a California Corporation,

20 Defendant.

No. C02-01991 CRB

**DECLARATION OF CHARLES M.
MCMAHON IN OPPOSITION TO
GOOGLE'S MOTION FOR AN ORDER
EXTENDING GOOGLE'S TIME TO
SERVE PRELIMINARY INVALIDITY
CONTENTIONS**

1 I, Charles M. McMahon, declare as follows:

2 1. I am an associate at the law firm of Brinks Hofer Gilson & Lione, counsel
3 of record for plaintiff Overture Services, Inc. ("Overture") in this matter. I make this
4 declaration in opposition to Google's Motion for an Order Extending Google's Time to
5 Serve Initial Invalidity Contentions. I make the following declaration based upon my
6 personal knowledge, and I could and would testify thereto under oath if called upon to
7 do so.

8 2. Pursuant to Patent L.R. 3-1, Overture served Google with a copy of
9 Overture's Disclosure of Asserted Claims and Preliminary Infringement Contentions on
10 September 16, 2002. A true and correct copy of the Disclosure is attached as Exhibits
11 3 and 4 to the declaration of Mr. Michael S. Kwun. On page 2 of its Disclosure,
12 Overture directed Google to certain pages from Google's website in which Google
13 explains the operation of its AdWords Select system. True and correct copies of these
14 website pages are attached as Exhibit 1 to this declaration.

15 3. On September 17, 2002, I participated in a telephone conversation during
16 which counsel for defendant Google Inc. ("Google") requested that Overture supplement
17 the claim chart included in its Disclosure of Asserted Claims and Preliminary
18 Infringement Contentions.

19 4. On September 19, 2002, Mr. Jack C. Berenzweig, a partner at Brinks
20 Hofer Gilson & Lione, sent a letter to counsel for Google in response to the concerns
21 raised during the September 17 telephone call. A true and correct copy of
22 Mr. Berenzweig's September 19 letter is attached as Exhibit 6 to Mr. Kwun's declaration
23 in support of Google's motion. In the letter, Mr. Berenzweig invited Google's counsel to
24 identify particular entries in Overture's claim chart that allegedly lacked sufficient
25 specificity. Mr. Berenzweig offered to review any identified entries and consider
26 supplementation.

27 5. In a letter dated September 19, 2002, counsel for Google responded to
28 Mr. Berenzweig's letter and identified two specific, allegedly deficient entries in

1 Overture's claim chart. A true and correct copy of this letter is attached as Exhibit 7 to
2 Mr. Kwun's declaration.

3 6. On September 24, 2002, Mr. Berenzweig sent another letter to counsel for
4 Google. In this letter, Mr. Berenzweig provided additional information about the two
5 specific claim chart entries that counsel for Google identified on September 19. A copy
6 of Mr. Berenzweig's September 24 letter is attached as Exhibit 8 to Mr. Kwun's
7 declaration.

8 7. On September 27, 2002, I participated in another telephone call with
9 counsel for Google. During the conversation, counsel for Google asserted that
10 Overture's claim chart still lacked sufficient specificity. Mr. Berenzweig again invited
11 counsel for Google to identify other specific claim chart entries that allegedly were
12 deficient. However, Google's counsel declined Mr. Berenzweig's offer and instead filed
13 the present motion for extension of time.

14 I declare under penalty of perjury under the laws of the United States of America
15 that the foregoing is true and correct. Executed on this 10th day of October 2002 at
16 Chicago, Illinois.

17
18 /s/

19 Charles M. McMahon
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